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IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,	:	Civil Nos. 1:09 CV64 JTG
	:	
Petitioner,	:	REPORT AND RECOMMENDATION
	:	
vs.	:	Honorable J. Thomas Greene
	:	Magistrate Judge Brooke Wells
EDWARD WELSH,	:	
	:	
Respondent.	:	

On May 12, 2009, the United States of America filed a petition to enforce its September 18, 2008 IRS Summons (“the Summons”) pursuant to [26 U.S.C. §§ 7402\(b\)](#) and 7604(a). Judge Greene issued an Order to Show Cause (“OTSC”) on June 15, 2009, which referred this matter to the undersigned.

The OTSC directed Respondent to file a written response supported by sworn affidavits to the United States’ Petition to Enforce the Summons (“the Petition”) within ten days of the OTSC being served upon him. The OTSC also directed the undersigned to convene a hearing on July 23, 2009 at 10:00 a.m. to hear any arguments that would assist the undersigned in determining whether Respondent has shown cause as to why he should not be ordered to comply with the Summons. Respondent failed to provide any written response prior to the hearing.

In compliance with the OTSC, the undersigned convened a hearing on July 23, 2009 at 10:00 a.m., at which Respondent appeared *pro se*, and the United States appeared through Assistant United

States Attorney Jared C. Bennett. After the arguments and representations made in the written submissions and at the hearing, I report the following:

1. The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United States established that: (1) it sought the summoned information for a legitimate purpose, (2) the summoned information is relevant to the legitimate purpose, (3) the summoned information was not already in the possession of the United States; and (4) that the United States followed proper administrative procedures.

2. Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Respondent has failed to show cause as to why he should not be ordered to comply with the Summons.

Consequently, I recommend that:

1. The District Court find that the United States has carried its burden to enforce the Summons and that Respondent has failed to show cause why he should not be compelled to comply with the Summons; and

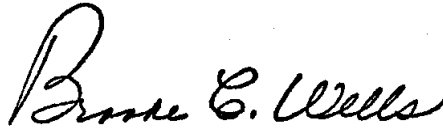
2. The District Court order Respondent to provide the information required by the Summons to the IRS by no later than 60 days after the District Court adopts this Report and Recommendation.

Within 10 days after being served with a copy of this Report and Recommendation, a party may serve and file specific, written objections. A party may respond to another party's objections within 10 days after being served with a copy thereof. Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#), the District Judge to whom this case is assigned shall make a *de novo* determination upon the record of any portion of the undersigned's disposition to which specific written objection has been made. The

District Judge may accept, reject, or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

DATED this 27th day of July 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke E. Wells". The signature is written in a cursive, flowing style. The first letter of "Brooke" is a large, stylized capital "B". The signature is positioned above a horizontal line.

BROOKE WELLS, Magistrate Judge
United States District Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office for the District of Utah, and that a copy of the foregoing REPORT AND RECOMMENDATION was mailed first class postage prepaid, this 23d day of July 2009 to the following:

Edward B. Welsh
5577 Day Lilly Dr.
Mountain Green, UT 84050

/s/ Jared C. Bennett